Chapter 5: Trade Regulations, Customs and Standards

Import Tariffs

Imports are subject to a number of taxes and fees in Brazil, which are usually paid during the customs clearance process. There are three taxes that account for the bulk of import costs: the Import Duty (II), the Industrialized Product tax (IPI) and the Merchandise and Service Circulation tax (ICMS). In addition to these taxes, several smaller taxes and fees apply to imports. Note that most taxes are calculated on a cumulative basis.

Brazil and its Southern Common Market (Mercosul) partners, Argentina, Paraguay, and Uruguay implemented the Mercosul Common External Tariff (CET) on January 1, 1995. Venezuela became a full member of Mercosul in 2012. Each country maintains a separate exceptions list of items for tariffs.

In 1995 Brazil implemented the Mercosul Common Nomenclature, known as the NCM (*Nomenclatura Comum do Mercosul*), consistent with the Harmonized System (HS) for tariff classification. Information about the NCM can be found at:

http://www.brasilglobalnet.gov.br/frmprincipal.aspx

The Brazilian Government established a computerized information system to monitor imports and to facilitate customs clearance known as the Foreign Trade Integrated System (SISCOMEX). SISCOMEX has facilitated and reduced the amount of paperwork previously required for importing into Brazil. Brazilian importers must be registered in the Foreign Trade Secretariat's (SECEX's) Export and Import Registry and receive a password given by Customs to operate the SISCOMEX. The SISCOMEX online registry creates electronic import documents and transmits information to a central computer. More information is available at:

http://www.receita.fazenda.gov.br/Principal/Ingles/VerSão2/default.asp

Import Duty
The Import duty (abbreviated in Portuguese as II) is a federally-mandated product-specific tax levied on a CIF (Cost, Insurance, and Freight) basis. In most cases, Brazilian import duty rates range from 10% to 35%. MDIC publishes a complete list of NCM products and their tariff rates on its site:

Industrialized Product Tax (IPI)

The IPI is a federal tax levied on most domestic and imported manufactured products. It is assessed at the point of sale by the manufacturer or processor in the case of domestically produced goods, and at the point of customs clearance in the case of imports. As part of the federal government's efforts to support local producers, IPI rates between imported and domestically produced goods within the same product category may differ. The IPI tax is not considered a cost for the importer, since the value is credited back to the importer. Specifically, when the product is sold to the end user, the importer debits the IPI cost.

The Government of Brazil levies the IPI rate by determining how essential the product may be for the Brazilian end-user. Generally, the IPI tax rate ranges from 0% to 15%. In the case of imports, the tax is charged on the product's CIF value plus import duty. A product's IPI rate is directly proportional to its import tariff rate. As with value-added taxes in Europe, IPI taxes on products that pass through several stages of processing are reduced to compensate for IPI taxes paid at each stage. Brazilian exports are exempt from the IPI tax. Brazilian Customs publishes the complete list of NCM products and their IPI tariffs at:

Merchandise and Service Circulation Tax (ICMS)

The ICMS is a state government value-added tax applicable to both imports and domestic products. The ICMS tax on imports is assessed ad valorem on the CIF value, plus import duty, plus IPI. Although importers have to pay the ICMS to clear the imported product through Customs, it is not necessarily a cost item for the importer because the paid value represents a credit to the importer. When the product is sold to the end user, the importer debits the ICMS, which is included in the final price of the product and is paid by the end user.

Effectively, the tax is paid only on the value-added; the tax is generally passed on to the buyer since it is included in the price charged for the merchandise. The ICMS tax due to the state government is based upon taxes collected on sales by a company, minus the taxes paid in purchasing raw materials and intermediate goods. The ICMS tax is levied on both intrastate and interstate transactions and is assessed on every transfer or movement of merchandise. The rate varies among states: in the State of São Paulo, the rate varies from 7% to 18%. On interstate movements, the tax will be assessed at the rate applicable to the destination state. Some sectors of the economy, such as mining, electricity, liquid fuels and natural gas can be exempt from the ICMS tax. Most Brazilian exports are exempted.

Trade Barriers

Brazil ranked 130 out of 183 countries in the World Bank's 2012 Doing Business Report. U.S. exporters to Brazil face challenges. U.S. companies cite high tariffs, an uncertain customs system, high and unpredictable tax burdens, and an overburdened legal system as major hurdles they must overcome to do business in Brazil. U.S. exporters in regulated industries (e.g., medical devices, health, and safety products) have a particularly challenging time navigating Brazilian rules and regulations.

As Brazil has implemented the *Brasil Maior* (Greater Brazil) plan, we have seen a rise in trade protections such as tax breaks to benefit local manufacturers, increased tariffs, and local content requirements. U.S. companies need to find strategic Brazilian partners and find ways to show that they are doing more than selling their products in Brazil and then going home. U.S. companies may face market access challenges in Brazil over the next several years, such as increasing pressures on the GOB to raise tariffs and impose non-tariff barriers. Brazil's "Buy Brazil" policy is one such measure.

Import Requirements and Documentation

U.S. exporters and Brazilian importers must register with the Foreign Trade Secretariat (SECEX), a branch of the Ministry of Industrial Development and Commerce (MDIC).

Depending on the product, Brazilian authorities may require more documentation. For instance, the Ministry of Health controls all products that may affect the human body, including pharmaceuticals, vitamins, cosmetics and medical equipment/devices. Such products can only be imported and sold in Brazil if the foreign company establishes a local Brazilian manufacturing unit or local office, or the foreign company appoints a Brazilian distributor who is authorized by the Brazilian authorities to import and distribute medical products. Such products must be registered with the Brazilian Ministry of Health. The registration process can sometimes be complex and/or time consuming. More details about documentation can be found at:

http://www.fedex.com/us/international/irc/profiles/irc_br_profile.html?gtmcc=us

U.S. Export Controls

At this time, the U.S. Government maintains no export controls specific to Brazil. Normal controls are maintained on military equipment, high-tech information systems, and equipment of a highly sensitive nature. Items on the Munitions Control List are also a controlled export to nearly all countries worldwide, including Brazil, requiring special licenses from the State Department or Commerce Department depending upon the item. You can see the current list of export controls at the U.S. Bureau of Industry and Security (BIS) website:

http://www.bis.doc.gov/

For information on controls on exports of defense articles, see the State Department's Directorate of Defense Trade Controls (DDTC) at:

http://www.pmddtc.state.gov

Temporary Entry

Since 2000, the Government of Brazil has made an allowance for temporary importation of products that are used for a predetermined time period and then re-exported. Brazil has already ratified the International Convention for the Temporary Admission of Goods. Under Brazil's temporary import program, the II and IPI are used to determine the temporary import

tax. Products must be used in the manufacture of other goods and involve payment of rental or lease fees from the local importer to the international exporter.

The Brazilian Government is studying the adoption of the ATA Carnet, an international customs document that allows importers to temporarily import goods up to one year without payment of normally applicable duties and taxes, including value-added taxes. The adoption of ATA Carnet use in Brazil would have a huge impact on customs clearance for U.S. trade show exhibitors that currently face difficulties and delays in getting these temporary imports into Brazil. Admission of Brazil to the carnet system would ease costly trade barriers between the U.S. and Brazil. Brazil is expected to come on board prior to the soccer World Cup in 2014, but no specific timeline has been set.

The 2016 Olympic Organizing Committee has received approval from the federal and state government that no taxes will be levied on products and services that will be temporarily imported into Brazil for the Olympics. In order to qualify, U.S. companies must document that the product or service will only remain in the country temporarily. However, this will be accounted for in the procurement guidelines that will be published by the Olympic Committee.

Under Brazil's temporary import program, the Import Duty (II) and Industrialized Product tax (IPI) are used to determine the temporary import tax. Products must be used in the manufacture of other goods and involve payment of rental or lease fee from the local importer to the international exporter.

There are very strict rules regarding the entry of used merchandise into Brazil. An example of products falling under this program would be the temporary importation of machine tools. The example in the table below shows that taxes due are proportional to the time frame the imported product will remain in Brazil. This also applies to temporary entry of personal belongings.

Labeling and Marking Requirements

The Brazilian Customer Protection Code requires that product labeling provide the consumer with precise and easily readable information about the product's quality, quantity, composition, price, guarantee, shelf life, origin, and risks to the consumer's health and safety. Imported products should bear a Portuguese translation of this information. Products should be labeled in metric units or show a metric equivalent.

More information can be found regarding required and recommended labeling and marking in USCS Brazil's report on standards at:

http://www.ita.doc.gov/td/standards/Markets/Brazil.htm

Prohibited and Restricted Imports

The Brazilian Government has eliminated most import prohibitions with certain exceptions. In general, all used consumer goods are prohibited from being imported. Used capital goods are allowed only when there is no similar item produced locally. Aviation parts, for example, are one of the few used products allowed to enter Brazil. Remanufactured goods are still considered used goods, although the Department of Commerce is working through the U.S.-

Brazil Commercial Dialogue (a bilateral government-to-government mechanism) to address this issue. The country prohibits the imports of beef derived from cattle administered with growth hormones, fresh poultry meat and poultry products coming from the U.S. and color prints for the theatrical and television market. There is also specific legislation that prohibits the importation of products that the Brazilian regulatory agencies consider harmful to health, sanitation, national security interest, and the environment. For a more detailed list of prohibited and restricted items, access:

http://www.fedex.com/us/international/irc/profiles/irc_br_profile.html?gtmcc=us

Customs Regulations and Contact Information

It is essential to have all Customs documents in complete order. Products can get delayed for various reasons, including minor errors or omissions in paperwork. Products held at customs in Brazil can be assessed high fees. Brazilian Customs frequently seizes shipments that appear to have inaccurate documentation. Customs has the right to apply fines and penalties at its discretion. For further information on customs regulations in Brazil, visit the Customs website (in Portuguese):

http://www.receita.fazenda.gov.br

Standards

- Overview
- Standards Organizations
- Conformity Assessment
- Product Certification
- Accreditation
- Publication of Technical Regulations
- Contacts

Overview

Brazil has strict rules regarding standards and an active group of standards organizations. The National Institute of Metrology, Quality, and Technology (INMETRO) is a government entity and is the operating arm of Brazil's standards regime, led by the National Council of Metrology, Standardization and Industrial Quality, CONMETRO. The council is formed by a group of 8 ministries and 5 governmental agencies. The Council is the regulatory body of The National System of Metrology, Standardization and Industrial Quality (SINMETRO). More information about the Council can be found at:

http://www.inmetro.gov.br/inmetro/conmetro.asp

Standards Organizations

INMETRO is the main national accreditation body and is in charge of implementing the national policies regarding quality and metrology established by CONMETRO, the Council that oversees INMETRO's activities. INMETRO is responsible for certification of products, services, licensing, and testing labs, among other duties. More information about INMETRO can be found at http://www.inmetro.gov.br/english

The Brazilian Association of Technical Standards (ABNT) is also a recognized standards organization. More information about ABNT can be found at: http://www.abnt.org.br/

NIST Notify U.S. Service

Member countries of the World Trade Organization (WTO) are required under the Agreement on Technical Barriers to Trade (TBT Agreement) to report to the WTO all proposed technical regulations that could affect trade with other Member countries.

Notify U.S. is a free, web-based e-mail subscription service that offers an opportunity to review and comment on proposed foreign technical regulations that can affect your access to international markets. Register online at: http://www.nist.gov/notifyus/

Conformity Assessment

Conformity assessment includes all activities needed to demonstrate compliance with specified requirements relating to a technical regulation or voluntary standard. In Brazil, the conformity assessment system follows ISO guidelines. Conformity assessment includes test and calibration laboratories, product certification bodies, accreditation bodies, inspection and verification units, quality system registrars, and others.

Conformity assessment can be voluntary or mandatory (done through a legal instrument to protect the consumer on issues related to life, health and environment). Interested U.S. parties can be accredited by INMETRO to perform conformity assessment activities.

Product Certification

Mandatory Testing and Mandatory Product Certification

For regulated products, the relevant government agency generally requires that entities engaged in product testing and mandatory certification be accredited by INMETRO. Generally, testing must be performed in-country, unless the necessary capability does not exist in Brazil.

INMETRO is a signatory to the mutual recognition arrangement (MRA) of the International Laboratory Accreditation Cooperation (ILAC), which can facilitate acceptance of test results from U.S. laboratories that are accredited by U.S. organizations who are also signatories. For a complete list of MRAs to which INMETRO belongs, visit the following website: http://www.inmetro.gov.br/english/international/mutual.asp

A complete list of products subject to mandatory certification can be found at: http://www.inmetro.gov.br/qualidade/prodCompulsorios.asp

Non-Mandatory Testing and Product Certification

There is no legal mandate as of yet to retest non-regulated products that have been approved in their country of origin. For non-regulated products, some U.S. marks and product certification may be accepted. As with all voluntary standards, any certification that may be required in non-regulated sectors is a contractual matter to be decided between buyer and seller. Market forces and preferences sometimes require a specific certification.

To facilitate U.S. product acceptance in Brazil by recognizing existing certifications, agreements between U.S. and local certifiers/testing houses are encouraged. Also, there is no impediment for the establishment of U.S. certification organizations in Brazil. If your product has been certified in the U.S. or Europe, it probably will not need to be recertified (see MRA above). If your product is not certified, please refer to the mandatory product certification link: http://www.inmetro.gov.br/qualidade/prodCompulsorios.asp

A list of certified products (both mandatory and voluntary) in Brazil is available at the following website: http://www.inmetro.gov.br/prodcert/Produtos/busca.asp

Accreditation

The General Coordination for Accreditation (CGCRE) of INMETRO is responsible for accrediting certification bodies, quality system registrars, inspection bodies, product verification and training bodies, as well as testing and calibration laboratories.

Information about accreditation requirements and currently accredited bodies is available at: http://www.inmetro.gov.br/credenciamento/index.asp.

Publication of Technical Regulations

INMETRO and CONMETRO use their websites to inform the public about updates to technical regulations. Please see the *Contacts* section below for the site address.

Contacts

Standards – Brazil Office
Contact : Mr. Everett Wakai, Commercial Officer
Phone: 55-11-3250-5402
E-mail: Everett.wakai@trade.gov

Contacts of main Standards organizations in Brazil can be found on the following web sites:

National Institute of Metrology, Standardization and Industrial Quality – INMETRO
http://www.inmetro.gov.br/

National Council of Metrology, Standardization and Industrial Quality – CONMETRO
http://www.inmetro.gov.br/inmetro/conmetro.asp

National System of Metrology, Standardization and Industrial Quality – SINMETRO
http://www.inmetro.gov.br/inmetro/sinmetro.asp

Trade Agreements

Brazil is a member of the Mercosul trading bloc, which has its own regional standards organization that issues and harmonizes standards. Technical committees write and recommend standards in selected areas. Each country must ratify the standard before they are adopted in that country. A number of standards have already been adopted as Mercosul standards. Adopted and proposed Mercosul standards are listed on Mercosul's website: http://www.amn.org.br.

The Executive Secretariat of the Mercosul Standards Organization is located in São Paulo, Brazil.

Web Resources

Brazilian country profile with useful customs and standards information:
http://www.fedex.com/us/international/irc/profiles/irc _br_profile.html?gtmcc=us

List and description of mutual recognition agreements between Brazil and USA:
http://www.inmetro.gov.br/english/international/mutual.asp

For technical regulations of international markets:
https://tsapps.nist.gov/notifyus/data/index/index.cfm

Brazil's most widely-read newspaper, *Folha de São Paulo*:
http://www.uol.com.br/fsp

Brazilian Foreign Trade Integrated System:
http://www.receita.fazenda.gov.br/aduana/siscomex/siscomex.htm

Information about Mercosul Common Nomenclature:
http://www.brasilglobalnet.gov.br/frmprincipal.aspx

Brazilian Ministry of Foreign Trade:
http://www.mdic.gov.br/sitio/interna/interna.php?area=1&menu=434

U.S. export control information:
http://www.bis.doc.gov/

Brazilian IPI and other tax rates:
http://www.receita.fazenda.gov.br/guiacontribuinte/consclassfiscmerc.htm

Brazilian Common External Tariffs:
http://www.desenvolvimento.gov.br/sitio/interna/interna.php?area=5&menu=1848